

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

Seoul Broadcasting System  
International, Inc., et al.

Plaintiffs,

v.

Young Min Ro, et al.

Defendants.

1:09CV433 (LMB/IDD)

**PLAINTIFFS' OPPOSITION TO DAEWOO'S MOTION TO COMPEL AND  
INCORPORATED MEMORANDUM OF LAW**

COME NOW Seoul Broadcasting System International, Inc. ("SBS International"), Mun Hwa Broadcasting Corporation ("MBC"), and KBS America, Inc. ("KBS America") (SBS International, MBC and KBS America are referred to collectively as "Plaintiffs"), by counsel, and in opposition to Defendant Daewoo's ("Daewoo") Motion to Compel ("Daewoo's Motion"), state as follows:

**Timeliness of Plaintiffs' Discovery Responses**

1. In its Motion, Daewoo asks this Court to rule that Daewoo's Requests for Admissions be deemed admitted as to Plaintiffs SBS International and KBS America due to a two-hour delay in service of those Plaintiffs' responses. (Daewoo's Motion, ¶¶ 1-4).

2. On January 27, 2011, in accordance with Rule 29(b) of the Federal Rules of Civil Procedure, counsel for Plaintiffs, Ms. Cheung, requested from counsel for Daewoo, Mr. Aquino, a one-day extension to file responses to Daewoo's Interrogatories, Requests for Admissions, and

Requests for Production to Plaintiffs. (Exhibit 1 – email from Mae Cheung, Esq. to Jerome P. Aquino, Esq., dated 1/27/11).

3. Ms. Cheung requested the extension because a snow and ice storm on the evening of January 26<sup>th</sup> had gridlocked all major roads in the Washington, D.C. metro area for several hours, created power outages of several days for some areas in the region, and left many roads difficult to navigate on January 27<sup>th</sup>.<sup>1</sup> (See Exhibit 1, as well as Exhibits 2 and 3 – articles from the *Washington Post*: “Snow Gridlock Traps Commuters for up to 13 Hours,” dated 1/27/11; “Pepco Struggles to End Power Outages,” dated 1/31/11).

4. Mr. Aquino offered a less than 24-hour extension – until 2:00 pm on January 28<sup>th</sup>. (See Exhibit 1).

5. At 2:00 pm on January 28<sup>th</sup>, Ms. Cheung e-mailed to Mr. Aquino verified discovery responses from MBC, one of the three Plaintiffs. (Exhibit 4). In the same email, Ms. Cheung informed Mr. Aquino that she was simply awaiting signatures from the other two California-based Plaintiffs, which she expected shortly. (Exhibit 4).

6. At 2:32 pm on January 28<sup>th</sup>, Mr. Aquino responded that, since Ms. Cheung had not met his 2:00 pm deadline with respect to the two remaining Plaintiffs, he considered Daewoo’s Requests for Admission to those two Plaintiffs to be admitted. (Exhibit 5).

7. At 4:07 pm on January 28<sup>th</sup>, Ms. Cheung e-mailed responses for the remaining two Plaintiffs to Mr. Aquino, having received approval from her clients to serve the same on opposing counsel only minutes before. (Exhibit 6). Responses for all three Plaintiffs were also served on Mr. Aquino via U.S. Mail on January 28<sup>th</sup>.

8. The discovery responses from all three Plaintiffs were virtually identical.

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<sup>1</sup> Though Ms. Cheung had not specified this in her e-mail, she had been among those commuters who had taken several hours to travel home on the evening of January 26<sup>th</sup> and arrived home to discover that she was also among those residents who lost power.

9. Mr. Aquino has not alleged in what way Daewoo has been prejudiced in this action by a two-hour delay in receiving from KBS America and SBS International discovery responses that were virtually identical to MBC's timely responses.

10. Daewoo's Motion should therefore be denied.

Timeliness of Plaintiffs' Objections

11. In its Motion, Daewoo asks this Court to compel Plaintiffs to withdraw their objections to Daewoo's Second Set of Interrogatories, Second Request for Production, and First Request for Admissions on the basis that Plaintiffs' objections to the same were untimely. (Daewoo's Motion, ¶¶ 6-7).

12. As noted above, Plaintiffs' discovery responses, which included objections, were served on January 28, 2011. Daewoo's Second Set of Interrogatories, Second Request for Production, and First Request for Admissions were served on December 28, 2010.

13. In addition to containing objections, Plaintiffs provided substantive written responses to Daewoo's discovery requests and also produced over 230 pages of responsive documents.

14. Local Rule 26 provides: "Unless otherwise ordered by the Court, an objection to any interrogatory, request, or application under Fed. R. Civ. P. 26 through 37, shall be served within fifteen (15) days after the service of the interrogatories, request, or application... The Court may allow a shorter or longer time."

15. The Federal Rules of Civil Procedure (the "Federal Rules") provide a party thirty (30) days in which to both reply and object to discovery requests: "The responding party must serve its answers and any objections within 30 days after being served with the interrogatories.

A shorter or longer time may be stipulated to under Rule 29 or ordered by the court.” (Fed. R. Civ. P. 33 (b)(2)).

16. The Federal Rules also give the Court the authority to allow a longer or shorter period of time for objections to interrogatories. (See Fed. R. Civ. P. 33 (b)(2)).

17. As mentioned above, counsel for Plaintiffs requested a one-day extension to serve discovery responses due to an ice and snow storm and attendant power outages. As is allowed under Rule 29, counsel for Daewoo stipulated to a 14-hour extension until 2:00 p.m. on January 28, 2011. He did not exclude from his extension any objections to such discovery requests.

18. Instead, Mr. Aquino raised the issue only after having received responses and objections from one of the three Plaintiffs.

19. Furthermore, Mr. Aquino has not alleged any prejudice to Daewoo in this action as a result of receiving objections in conjunction with Plaintiffs’ substantive written responses and over 230 pages of responsive documents.

20. Therefore this Court should deny Daewoo’s motion.

#### Conclusion

Daewoo has not been prejudiced by the approximately two hour delay in receiving two of Plaintiffs’ responses, nor in receiving Plaintiffs’ objections in conjunction with their responses and production of documents. Daewoo further has not shown that the actions it has moved the court to take are the appropriate remedies for the violations it alleges. Therefore, Plaintiffs respectfully request that this Court deny in full Daewoo’s Motion to Compel.

Dated February 11, 2011

Respectfully Submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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America, Inc.

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<b>SEOUL BROADCASTING SYSTEM</b>	)	
<b>INTERNATIONAL, INC., <i>et al.</i></b>	)	
	)	
<b>Plaintiffs,</b>	)	
<b>v.</b>	)	<b>1:09-cv-433-LMB-IDD</b>
	)	
<b>YOUNG MIN RO, <i>et al.</i></b>	)	
	)	
<b>Defendants.</b>	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of February, 2011, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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\_\_\_\_\_/s/\_\_\_\_\_  
Mae Cheung